

## REMARKS

This application has been carefully reviewed in light of the Office Action dated April 15, 2009. Claims 126 to 130, 132, 134 to 140, 142, 144, 145 and 147 to 155 are pending in the application. Claims 126, 136, 147, 148, 154 and 155 are the independent claims. Reconsideration and further examination are respectfully requested.

Claims 126 to 130, 132, 134, 135 and 154 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. In particular, the Office Action contends that independent Claims 126 and 154 do not transform the underlying subject matter, nor positively tie to another statutory category. This rationale appears to be based on the recent Federal Circuit decision in *In Re Bilski*, which stated that to pass muster under § 101, a process must either (1) be “tied to a particular machine or apparatus”, or (2) “transform a particular article into a different thing or state”. Without conceding the correctness of this rejection, Claims 126 and 154 have been amended to recite using a processor perform the steps of the method. Withdrawal of the rejection is therefore respectfully requested.

Claim 147 was rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, the Office Action contends that it is unclear as to how a program stored in a memory can perform the claimed steps without the aid of a computer device. This rejection is respectfully traversed. In particular, Claim 147 recites a computer-readable storage medium storing a computer-executable program, fully in accordance with the guidelines at MPEP § 2106.01. Moreover, there is no requirement that a claim directed to a storage medium also recite hardware for accessing

and/or performing the program stored on the storage medium. Withdrawal of the rejection is therefore respectfully requested.

No other matters being raised, the entire application is believed to be in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Michael J. Guzniczak/

---

Michael Guzniczak  
Attorney for Applicants  
Registration No.: 59,820

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3800  
Facsimile: (212) 218-2200

FCIS\_WS 3646503v1